

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IYAN MAYES,

Plaintiff,

Case Number: 12-11344

v.

HON. AVERN COHN

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al,

Defendants.

_____ /

ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 16)
AND
GRANTING MICHIGAN DEPARTMENT OF CORRECTIONS'S MOTION TO DISMISS
(Doc. 11)

I.

This is a pro se prisoner civil rights action brought under 42 U.S.C. § 1983. Plaintiff Iyan Mayes alleges that the Michigan Department of Corrections (MDOC) and others¹ at three correctional facilities were deliberately indifferent to his medical needs in violation of the Eighth Amendment to the United States Constitution. The matter has been referred to a magistrate judge for all pretrial proceedings. The MDOC filed a motion to dismiss on the grounds that as a state agency, it is immune from suit under the Eleventh Amendment. On September 25, 2012, the magistrate judge issued a report and recommendation (MJRR), recommending that the motion be granted. (Doc. 16).

¹Plaintiff has also named eight individual defendants. On October 19, 2012, the magistrate judge issued an order directing service on those defendants by the U.S. Marshal. The order provided addresses for each defendant to effectuate service. (Doc. 18).

II.

Neither party has objected to the MJRR and the time for objections has passed. The failure to file objections to the MJRR waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the MJRR releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the MJRR and agrees with the magistrate judge.

III.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. The MDOC's motion to dismiss is GRANTED.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: November 2, 2012

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, November 2, 2012, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160